

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

APRIL 20, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Vice President
William Elkins, Member
Lorrie I. Ward, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn
(Presented by Linda Brooks, Assistant Executive Officer)

- A. The Senate Budget subcommittee approved the State resources to replace the case tracking system in the Appeals Division.
- B. Three members of the State Personnel Board's executive staff are participating in the California Leadership Institute, a training program for Executives.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

- A. The State Personnel Board has hired Mary Horst, formerly of the Office of the Attorney General, to fill the vacant Administrative Law Judge I position in Fresno and will start May 7, 1999.

- B. Bruce A. Monfross, our newly appointed Staff Counsel, started work as planned on April 12, 1999.

4. REPORT ON LEGISLATION - Judy Balmain

- A. SB 1073 Ortiz - The sponsored omnibus bill was passed out of the Public Employment and Retirement Committee on consent.
- B. The Senate passed the State Personnel Board's proposed budget, approving the first year costs of a Case Management Tracking System.

The Senate adopted supplemental language requiring the State Personnel Board to report on its progress in implementing recommendations of the State Auditor General's Report of the State Personnel Board's appeals process.

The Senate also adopted supplemental language requiring the State Personnel Board to review vacant Career Executive Assignment (CEA) position.

- C. The State Personnel Board legislative and legal staff are working with the legislators and sponsors of AB 1399 (Wayne) Demonstration Projects and AB 688 (Steinberg) contracting out, to resolve State Personnel Board's issues with the bills.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 6, 1999

ACTION: Adopted on April 20, 1999.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On April 20, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

REJECTED AND REMANDED DECISION

JOYCE MILAS, CASE N O. 98-3477
Appeal from automatic resignation
Employment Development Department
ACTION: Administrative Law Judge's proposed decision rejected
by Board. Board to decide case itself

PROPOSED DECISIONS

MICHAEL JACKSON, CASE NO. 97-1818
Appeal from dismissal
Department of the Youth Authority
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

PARIS MERRIAM, CASE NO. 97-5010
Appeal from dismissal
Department of Industrial Relations
ACTION: Dismissal Sustained

CHRISTOPHER COLE, CASE NO. 98-4511
Appeal from 15 working days suspension
Department of Corrections
ACTION: Suspension Revoked

TANYA S. CARR, CASE NO. 98-4313
Appeal from 15 working days suspension
Department of Social Services
ACTION: Suspension Sustained

FRANK R. RAMIREZ, CASE NO. 99-005
Appeal from demotion
Department of Forestry and Fire Protection
ACTION: Permanent Demotion Modified to Demotion for 3 Months

JOSEPH MAZEROLL, CASE NO. 99-0027
Appeal from official reprimand
Department of Corrections
ACTION: Official Reprimand Sustained

TERRY D. KNOX, CASE NO. 98-2862
Appeal from dismissal
Department of Corrections
ACTION: Administrative Law Judge's proposed decision rejected
by Board. Board to decide case itself

CHRIS A. CHAVEZ, CASE NO. 98-4321
Appeal from official reprimand
Department of the Youth Authority
ACTION: Official Reprimand Sustained

PETER PERKINS, CASE NO. 98-2860
Appeal from demotion
Department of Corrections
ACTION: Demotion Modified to Temporary Demotion
of 1 Year

BEVERLY BOYD, CASE NO. 98-428
Appeal from dismissal
Employment Development Department
ACTION: Dismissal Sustained

RAUL P. PICKETT, CASE NO. 97-5152
Appeal for back salary determination after reinstatement
from dismissal
Department of Developmental Services
ACTION: Additional Back Salary, Benefits and Interest
Directed

BERNARD F. MCGUINNESS, CASE NO. 98-0194
Appeal from dismissal
Department of California Highway Patrol
ACTION: Dismissal Sustained

FAUSTINO LAGURA, JR., CASE NO. 98-5100
Appeal from 5 working days suspension
Department of Transportation
ACTION: Suspension Sustained

ANNA M. DIAZ, CASE NO. 98-1042
Appeal from demotion
Department of the Youth Authority
ACTION: Permanent Demotion Modified to Temporary Demotion
for 13 Months

ESMERALDA DONNELLY, CASE NO. 98-5146
Appeal from 3 working days suspension
Department of Social Services, Imperial County
ACTION: Suspension Revoked

FREDERICK GOODMAN, CAE NO. 99-0213
Appeal from 1 step reduction in salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Sustained

VICTOR PLATERO, CASE NO. 98-3584
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Revoked

PETITIONS FOR REHEARING

RAMOND D. BINNS, CASE NO. 98-3485
Appeal from official reprimand
Department of the Youth Authority
ACTION: Petition withdrawn and matter referred to the State
Personnel Board's Appeals Division to be processed as a
Request to File Charges case

JOHN W. CONES, CASE NO. 98-3003
Appeal from dismissal
Department of Corrections
ACTION: Petition for rehearing filed by Appellant Granted

PAUL CRUZ, CASE NO. 98-2663
Appeal from dismissal
Department of Corrections
ACTION: Petition for rehearing filed by Respondent Granted

KIM KURIHARA, CASE NO. 98-0602
Appeal from dismissal
Department of Developmental Services
ACTION: Petition for rehearing filed by Appellant Denied

ROBERT McCUTCHAN, CASE NO. 97-2291
Appeal from dismissal
Department of the Youth Authority
ACTION: Petition for rehearing filed by Respondent Denied

RAQUEL M. NICHOLSON, ASE NO. 97-1920
Appeal from dismissal
Department of Consumer Affairs
ACTION: Petition for rehearing filed by Respondent Denied

DONALD R. REVELS, CASE NO. 98-3493
Appeal from official reprimand
Department of the Youth Authority
ACTION: Petition Denied and matter referred to the State
Personnel Board's Appeals Division to be processed as a
Request to File Charges case

DEBORAH STALEY, CASE NO. 97-3226
Appeal from dismissal
Department of Food and Agricultural
ACTION: Petition for rehearing filed by Respondent Denied

SANDRA TRIPP, CASE NO. 97-3900
Appeal from dismissal
Department of Corrections
ACTION: Petition for rehearing filed by Respondent Denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 15-18

8. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On April 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Carpenter, Elkins, Ward - Aye.

PETITION FOR REHEARING

CASE NOT HEARD BY A STAFF HEARING OFFICER

- A. MELINDA BACA, Case # 99-0493
Classification: Correctional Officer
ACTION: Appellant was not entitled to a hearing and
was informed that her appeal would be decided on the
written record.

WITHHOLD DENIAL CASES

CASES NOT HEARD BY A STAFF HEARING OFFICER

- B.
1. RICARDO RESENDIZ, Case No. 99-0277
Classification: Cadet, California Highway Patrol
ACTION: DENIED
 2. JEANNINE WRIGHT, Case No. 99-0128
Classification: Accountant 1/Spec.
ACTION: DENIED

DISMISSAL CASES

CASES NOT HEARD BY A STAFF HEARING OFFICER

- * BRENDA E. BARNETT, Case No. 98-3696
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * MICHAEL BECKER, Case No. 99-0275
Classification: Medical Technician Assistant,
Department of Corrections.
ACTION: DISMISSED - No timely response to SPB request
for information.
- * JOSEPH B. BICKELL, Case No. 98-4908
Classification: Correctional Officer
ACTION: DISMISSED - No timely response to SPB request
for information.
- * PETE CONTRERAS, Case No. 98-5050
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - No timely response to SPB request
for information.
- * SHELLY M. EVANS, Case No. 98-5028
Classification: Correctional Officer
ACTION: DISMISSED - No timely response to SPB request
for information.
- * NANCY G. FOWERS, Case No. 98-3690
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Department withdrew action.
- * CHRISTOPHER A. RAVENTOS, Case No. 98-2961
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Department withdrew action.
- * EDWARD H. LOPEZ, Case No. 98-4901
Classification: Carpenter II/CF
ACTION: DISMISSED - Department withdrew action.
- * EDWARD H. LOPEZ, Case No. 98-5234
Classification: Carpenter II/CF
ACTION: DISMISSED - Department withdrew action.
- * EDWARD H. LOPEZ, Case No. 98-5235
Classification: Carpenter II/CF
ACTION: DISMISSED - Department withdrew action.

- * EDWARD H. LOPEZ, Case No. 98-5236
Classification: Vocational Instructor/CF
ACTION: DISMISSED - Department withdrew action.
- * PAUL G. STRAW, Case No. 98-3703
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

9. MEDICAL APPEALS

On April 20, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

CASES HEARD BY A STAFF HEARING OFFICER

- A. THOMAS TAFOYA, Case No. 98-0864
Classification: Correctional Officer
ACTION: DENIED.
- B. LISA JUDD, Case No. 98-2641
Classification: Correctional Officer
ACTION: DENIED
- C. MICHELL HANNON, Case No. 98-3006
Classification: Correctional Officer
ACTION: DENIED

CASE NOT HEARD BY A STAFF HEARING OFFICER

- D. REBECCA HARTMAN, Case No. 99-0745
Psychological disqualification.
ACTION: GRANTED - an appointment to the next available academy, after successful completion of the remainder of the process.

DISMISSAL CASES

- * BRANDON GINGG, Case No. 99-0038
Classification: Psychiatric Technician
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

- * KEVIN GOOLSBY, CASE NO. 99-0961
Classification: Youth Correctional Counselor
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * MICHAEL P. MOORE, Case No. 99-0949
Classification: Youth Correctional Counselor
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * EMILI GARCIA, Case No. 98-1547
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

10. EXAMINATION APPEALS

On April 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

- A. MANAGEMENT SERVICES TECHNICIAN Group Examination Appeal
- Case Nos. 98-0342 thru 98-0353
Final Filing Date: October 10, 1997
Examination: Promotional Readiness
Interview
Class: Management Services Technician
Testing Agency: Department of Parks and
Recreation
Appeal Received: January 21, 1998
ACTION: GRANTED - Abolish the current eligible list
and direct the Department of Parks and Recreation to
give a new examination covering the subjects shown in
the "knowledge and abilities" for the classification.

DISMISSAL CASES

CASES NOT HEARD BY A STAFF HEARING OFFICER

- * SAUNDRA J. BURLESON, Case No. 98-4307
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.
- * STEVEN DESIMONE, Case No. 98-4307
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm
appearance for scheduled hearing.

11. REQUEST TO FILE CHARGES CASES

On April 20, 1999, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

CASES NOT HEARD BY A STAFF HEARING OFFICER

- A. PETITIONERS: Ronald Budzenski, Rudy Mask, Linda Eichberger and William Mitchell employees of the Department of Justice.
ACTION: DENIED
- B. PETITIONER: Dan Leon, Case No. 98-2643, an employee of the Department of Corrections.
ACTION: DENIED
- C. PETITIONER: Pamela Staples, Case No. 98-0850, an employee of the Department of Corrections.
ACTION: DENIED

12. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

The staff has evaluated and recommends the following action be taken:

- A. CHIEF, PROTECTIVE SERVICES AND SECURITY
The Department of Mental Health proposes corrections to the Chief, Protective Services and Security class specification which was adopted by the State Personnel Board on September 2, 1998.

ACTION: Noted

13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION
 - (1) CHIEF, INFORMATION TECHNOLOGY BRANCH
CHIEF, FINANCIAL & MANAGEMENT SERVICES BRANCH
CHIEF, HUMAN RESOURCES & SUPPORT SERVICES BRANCH
The California Energy Commission proposes to allocate the above positions to the CEA category. The Department indicates that these positions will report to the Executive Directorate and will be responsible for developing, implementing and evaluating policies within their functional area

of responsibility. Currently, the Administrative Services Division is comprised of the above three branches under the direction of a CEA 2. The Commission proposes to reorganize the division, remove the CEA 2 designation and create three distinct and separate branches, each with a CEA. (Board meeting of March 23, 1999.)

- (2) CHIEF, BUSINESS SYSTEMS
CHIEF, TECHNOLOGY
The State Controller's Office proposes to allocate the above positions to the CEA category. The Department indicates that these positions will report to the Chief, Information Systems Division and will be responsible for setting policy within their functional area of responsibility. (Board meeting of March 23, 1999.)
- (3) ASSISTANT SUPERINTENDENT (VENTURA YOUTH CORRECTIONAL FACILITY)
The Department of the Youth Authority proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Superintendent and will be responsible for the development, implementation and administration of the policies and procedures to meet the objectives of the institution's treatment, classification, diagnosis, education, security, training and fiscal programs related to the female population. (Board meeting of April 6, 1999.)
- (4) CHIEF INFORMATION OFFICER
The Department of Finance proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Program Budget Manager and will be responsible for the recommendation and development of policies regarding the effective use of information technology in support of the Department's mission. (Board meeting of April 6 1999.)
- (5) DIRECTOR, DIVISION OF LEGAL SUPPORT AND TECHNOLOGY
The Department of Justice proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief Deputy, Administration and Policy and will serve as key policy maker in

relation to computer technology issues for the Department. (Board meeting of April 6, 1999.)

- (6) PROGRAM MANAGER, HUMAN RESOURCES MANAGEMENT AND PAYROLL SYSTEMS
The Office of the State Controller proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief, Information Systems Division and will be responsible for policy decisions relative to the development, implementation and initial maintenance of the Human Resources Management and Payroll Systems. (Board meeting of April 6, 1999.)
- (7) ASSISTANT TO THE DIRECTOR,
DEPARTMENT OF INFORMATION TECHNOLOGY (DOIT), YEAR 2000
(Board meeting of April 6, 1999.)
- (8) ASSISTANT TO THE DIRECTOR, DOIT,
YEAR 2000 TRANSITION TEAM
(Board meeting of April 6, 1999.)
- (9) CENTRAL DIAMOND TEAM MEMBER,
CHIEF PERSONNEL OFFICER
(Board meeting of April 6, 1999.)
- (10) CENTRAL DIAMOND TEAM MEMBER,
CHIEF BUDGET OFFICER
(Board meeting of April 6, 1999.)
- (11) CENTRAL DIAMOND TEAM MEMBER,
CHIEF FINANCIAL OFFICER
(Board meeting of April 6, 1999.)
- (12) CENTRAL DIAMOND TEAM MEMBER,
CHIEF PROCUREMENT OFFICER
(Board meeting of April 6, 1999.)
- (13) CENTRAL DIAMOND TEAM MEMBER, CHIEF LEGISLATIVE
AFFAIRS OFFICER
(Board meeting of April 6, 1999.)
- (14) DIRECTOR, STAFF PLANNING AND DEVELOPMENT
The Public Utilities Commission proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Executive Director and will be

responsible for developing and implementing long-range strategic plans and policies in the areas of staff relations and development and Business Plan human resources objectives.

(Board meeting of April 20, 1999.)

(15) CHIEF INFORMATION OFFICER

The Student Aid Commission proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Directorate and will be responsible for formulating the Department's information technology policy.

(Board meeting of April 20, 1999.)

(16) CHIEF, FINANCIAL AND ACCOUNTING SERVICES

The Department of Veterans Affairs proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Deputy Secretary, Administration and will be responsible for the day-to-day administrative decisions and leadership in the areas of headquarters accounting, reimbursements, accounting systems, veterans home accounting and budgets including contracting.

(Board meeting of April 20, 1999.)

B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR DENIED BY SPB MANAGEMENT

(1) ADMINISTRATIVE DEPUTY COMMISSIONER

The Board of Prison Term's proposed allocation of one position to the CEA category to perform the duties of the above position has been disapproved.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. JALAL EMAMI, CASE NO. 98-2116. Appeal from constructive medical termination. Department of Water Resources, (Oral argument held March 9, 1999.)

NO ACTION

2. RANDY L. MORENO, CASE NO. 97-4017. Appeal from demotion. Department of Development Services, (Oral argument held March 9, 1999.)

NO ACTION

3. THOMAS MARSHALL, CASE NO. 98-1336. Appeal from non-renewal of employment Head Coach, California State Polytechnic University of Pomona, (Oral argument held March 9, 1999.)

NO ACTION

4. RANDY HENDERSON, CASE NO. 97-1799. Appeal from dismissal. Department of the Youth Authority. (Oral argument held April 6, 1999.)

NO ACTION

5. CLADIS SILVIE, CASE NO. 98-2458. Appeal from dismissal. Department of Corrections. (Withdrawn as oral argument, written argument submitted to Board April 6, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

April 20, 1999

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 20, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Carpenter, Elkins, Ward - Aye.

CORRECTION

The action for the following appeal listed under Petitions For Rehearing in the April 6, 1999 minutes was incorrect and should have read:

DONALD STORMS, CASE NO. 98-1838

ACTION: Petition for rehearing filed by Respondent Denied